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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,905	08/31/2001	Simon McGuire	6311-51	2082

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EXAMINER
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GRAHAM, CLEMENT B

ART UNIT	PAPER NUMBER
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3692

DATE MAILED: 10/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/943,905

Applicant(s)

MCGUIRE, SIMON

Examiner

Clement B. Graham

Art Unit

3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

**Claim Rejections - 35 USC § 102**

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-21, are rejected under 35 U.S.C. 102(e) as being anticipated by Gulati U.S Patent 6, 778, 968.

As per claim 1, Gulati discloses a computer system (100) for managing a financial transaction between an issuer of a note and an investor buying the note, wherein the note is exchanged into one or more exchange traded items of the issuer's portfolio, comprising:

an index database for storing data relating to a specific time varying benchmark index;

an item database for storing data relating to the one or more exchange traded items to be exchanged;

a calculating unit for calculating an exchange ratio between the note and at least one exchange traded item of the portfolio based on at least a current level of the benchmark index and a current price of the at least one exchange traded item; and a transaction unit for delivering at least one exchange traded item in accordance with the calculated exchange ratio to the investor upon an exchange request of either the issuer or the investor or upon maturity of the note.(see column 6 lines 8-67 and column 7 lines 1-67and column 8 lines 1-24 and column 10-39 lines 1-67).

As per claim 2, Gulati discloses further comprising an index interface for receiving the current level of the benchmark index. .(see column 6 lines 8-67 and column 7 lines 1-67and column 8 lines 1-24 and column 10-39 lines 1-67).

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As per claim 3, Gulati discloses further comprising a price interface for receiving the current price of the at least one exchange traded item which is to be delivered. (see column 6 lines 8-67 and column 7 lines 1-67 and column 8 lines 1-24 and column 10-39 lines 1-67).

As per claim 4, Gulati discloses wherein the calculating unit calculates the exchange ratio ( $r$ ) according to wherein  $I$  is the current level of the benchmark index,  $x$  is a discount factor and  $S$  is the current price of the exchange traded item. (see column 6 lines 8-67 and column 7 lines 1-67 and column 8 lines 1-24 and column 10-39 lines 1-67).

As per claim 5, Gulati discloses further comprising an averaging unit (200) for averaging the exchange ratio. (see column 6 lines 8-67 and column 7 lines 1-67 and column 8 lines 1-24 and column 10-39 lines 1-67).

As per claim 6, Gulati discloses further comprising a first timing unit (210) in communication with the averaging unit (200), the first timing unit (210) controlling the averaging unit (200) such that the exchange ratio is averaged over a predetermined period of time. (see column 6 lines 8-67 and column 7 lines 1-67 and column 8 lines 1-24 and column 10-39 lines 1-67).

As per claim 7, Gulati discloses further comprising an input terminal (130) allowing to input the exchange request. (see column 6 lines 8-67 and column 7 lines 1-67 and column 8 lines 1-24 and column 10-39 lines 1-67).

As per claim 8, Gulati discloses further comprising a selection unit (190) for automatically selecting the one or more of the exchange traded items of the issuer's portfolio which are to be delivered to the investor and based on which the exchange ratio is calculated. (see column 6 lines 8-67 and column 7 lines 1-67 and column 8 lines 1-24 and column 10-39 lines 1-67).

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As per claim 9, Gulati discloses comprising an output unit (140) for notifying the investor of which exchange traded item to be delivered. .(see column 6 lines 8-67 and column 7 lines 1-67and column 8 lines 1-24 and column 10-39 lines 1-67).

As per claim 10, Gulati discloses further comprising a second timing unit (220) in communication with the transaction unit (150), the second timing unit (220) controlling the transaction unit (150) such that the at least one exchange traded item is automatically delivered a predetermined period of time after receipt of the exchange request, after maturity or after notification of the investor. .(see column 6 lines 8-67 and column 7 lines 1-67and column 8 lines 1-24 and column 10-39 lines 1-67).

As per claim 11, Gulati discloses further comprising a coupon database (230) for storing data relating to at least one coupon date and a monitoring unit (240) for monitoring the at least one coupon date and is for delivering a coupon to investor at each coupon date. .(see column 6 lines 8-67 and column 7 lines 1-67and column 8 lines 1-24 and column 10-39 lines 1-67).

As per claim 12, Gulati discloses a method for managing a financial transaction between an issuer of a note and an investor buying the note, wherein the note is exchanged into one or more exchange traded items of the issuer's portfolio, comprising the steps of

defining a specific time varying benchmark index and storing data relating to the benchmark index;

defining a portfolio of exchange traded items and storing data relating to the one or more exchange traded items to be exchanged;

calculating an exchange ratio between the note and at least one exchange traded item of the portfolio based on at least a current level of the benchmark index and a current price of the at least one exchange traded item; and

delivering at least one exchange traded item to the investor in accordance with the calculated exchange ratio upon an exchange request of either the issuer or the investor or upon maturity of the note. .(see column 6 lines 8-67 and column 7 lines 1-67and column 8 lines 1-24 and column 10-39 lines 1-67).

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As per claim 13, Gulati discloses wherein the exchange ratio ( $r$ ) is calculated according to wherein  $I$  is the current level of the benchmark index,  $x$  is a discount factor and  $S$  is the current price of the exchange traded item. (see column 6 lines 8-67 and column 7 lines 1-67 and column 8 lines 1-24 and column 10-39 lines 1-67).

As per claim 14, Gulati discloses further comprising averaging the exchange ratio over a predetermined period of time and delivering the exchange traded item in accordance with the averaged exchange ratio. (see column 6 lines 8-67 and column 7 lines 1-67 and column 8 lines 1-24 and column 10-39 lines 1-67).

As per claim 15, Gulati discloses further comprising automatically selecting the one or more of the exchange traded items of the issuer's portfolio which are to be delivered and based on which the exchange ratio is calculated. (see column 6 lines 8-67 and column 7 lines 1-67 and column 8 lines 1-24 and column 10-39 lines 1-67).

As per claim 16, Gulati discloses wherein the selection is made in a close timely relationship with the exchange request or with maturity. (see column 6 lines 8-67 and column 7 lines 1-67 and column 8 lines 1-24 and column 10-39 lines 1-67).

As per claim 17, Gulati discloses further comprising automatically notifying the investor of the exchange traded item of the issuer's portfolio to be delivered. (see column 6 lines 8-67 and column 7 lines 1-67 and column 8 lines 1-24 and column 10-39 lines 1-67).

As per claim 18, Gulati discloses wherein the at least one exchange traded item is automatically delivered a predetermined period of time after receipt of the exchange request, after maturity or after notification of the investor. (see column 6 lines 8-67 and column 7 lines 1-67 and column 8 lines 1-24 and column 10-39 lines 1-67).

As per claim 19, Gulati discloses further comprising defining at least one coupon date, storing the at least one coupon date, automatically monitoring the at least one coupon date and delivering a coupon to investor at each coupon date. (see column 6 lines 8-67 and column 7 lines 1-67 and column 8 lines 1-24 and column 10-39 lines 1-67).

As per claim 20, Gulati discloses a computer program with program code means for performing the steps according to one of claims 12 to 19 when the program is

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executed on a computer. .(see column 6 lines 8-67 and column 7 lines 1-67and column 8 lines 1-24 and column 10-39 lines 1-67).

As per claim 21, Gulati discloses stored on a computer-readable recording medium. .(see column 6 lines 8-67 and column 7 lines 1-67and column 8 lines 1-24 and column 10-39 lines 1-67).

### Conclusion

3 The prior art of record and not relied upon is considered pertinent to Applicants disclosure.

Getchius et al (US 6,393,415 Patent ) teaches adaptive partitioning techniques in performing query request and routing.

Ginter et al (US Patent 5,892,900) teaches system and methods for secure transaction management and electronic rights protection..

Roberta et al (US Patent 6,292,788) teaches methods of investment instruments for prtforming tan deferred real estate exchanges.


4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clement B Graham whose telephone number is 571-272-6795. The examiner can normally be reached on 7am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Souh can be reached on 703-308-0505. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for regular communications and 703-305-0040 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

CG

Sept 19, 2006

  
FRANTZY POINVIL  
PRIMARY EXAMINER  
AU 3628